

AMENDED IN SENATE MARCH 20, 2003

**SENATE BILL**

**No. 106**

**Introduced by Senator Alpert**

January 30, 2003

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An act to add Chapter 3.37 (commencing with Section 1596.69) to Division 2 of the Health and Safety Code, relating to public social services, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 106, as amended, Alpert. ~~Unlicensed providers of child care or supervision~~ *Volunteers with children*: criminal history information.

~~The California Child Day Care Facilities Act requires the State Department of Social Services to obtain criminal history information on applicants for licenses, special permits, or certificates of approval to operate or manage specified child day care facilities and family day care homes, and on specified persons employed by, residing in, or present in those facilities.~~

~~Existing law also requires the department to establish a trustline registry for the registration of persons, 18 years of age or older, who provide child care or supervision, and who are not required to be licensed pursuant to the provisions of the California Child Day Care Facilities Act.~~

*Existing law authorizes a human resource agency who is placing volunteers who would have supervisory or disciplinary power over minors to conduct criminal history checks on those persons through the Department of Justice, and requires the Department of Justice to provide the information to the employer and applicant.*

~~This bill would authorize parents or others who use the services of persons who provide child care or supervision to obtain criminal history~~

~~information directly from the Department of Justice specified nonprofit organizations to secure from the Department of Justice, with respect to adult volunteers who provide mentorship, sponsorship, or supervision to children in foster care or other children who need a consistent adult in their lives, criminal history information, subsequent arrest information, and information from the Child Abuse Central Index regarding reports of suspected child abuse or severe neglect.~~

*The California Community Care Facilities Act requires, under specified circumstances, that the State Department of Social Services secure from the Department of Justice criminal record information on volunteers for specified foster care providers, and a clearance or exemption from disqualification.*

*This bill would provide that its provisions do not apply to the obtaining of criminal history checks, clearances, or exemptions from disqualification pursuant to the above existing law, except that the department may permit a criminal record clearance obtained by an organization described in this bill to be used by specified foster care providers in order to satisfy the criminal record clearance requirements for volunteers pursuant to existing law.*

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: <sup>2</sup>/<sub>3</sub>. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Chapter 3.37 (commencing with Section  
2 1596.69) is added to Division 2 of the Health and Safety Code, to  
3 read:

4  
5 CHAPTER 3.37. CRIMINAL HISTORY INFORMATION FOR  
6 ~~UNLICENSED PROVIDERS OF CHILD CARE OR SUPERVISION PERSONS~~  
7 ~~WHO PROVIDE MENTORSHIP, SPONSORSHIP, OR SUPERVISION OF~~  
8 ~~CHILDREN THROUGH NONPROFIT CORPORATIONS~~  
9

10 1596.69. (a) The Legislature recognizes the need for parents  
11 ~~and other persons or organizations who nonprofit organizations~~  
12 ~~exempt from taxation pursuant to Section 501(c)(3) of the federal~~  
13 ~~Internal Revenue Code, that use the services of persons who~~  
14 ~~provide child care and supervision, but who are not required to be~~

~~licensed pursuant to Section 1596.792 volunteer services of persons who mentor, sponsor, or supervise children, to obtain timely and accurate positive fingerprint identification and, criminal history information, and information from the Child Abuse Central Index on those persons. These providers of child care or supervision include, but are not limited to, babysitters, nannies, and mentors.~~

(b) The Legislature finds and declares all of the following:

~~(1) While unlicensed providers of child care or supervision may seek to register to be trustline providers pursuant to Chapter 3.35 (commencing with Section 1596.60) and obtain a criminal record clearance in order to provide unlicensed child care or supervision, the processing of fingerprints, through the State Department of Social Services and for the trustline registry, is time consuming.~~

~~(2) Not all persons who provide child care or supervision, who are not required to be licensed, register as trustline providers.~~

~~(3) There is a need to provide parents, guardians, employers, and other organizations with an alternative means of obtaining criminal history information on persons who provide child care or supervision without a license, and for the processing of fingerprints for, and the obtaining of criminal history information on, these persons to be expedited in order to ensure the protection of children to the maximum extent possible.~~

~~(4)~~

~~(1) There exists a need for many children in foster care, and various other children, to have in their lives adults who can, as mentors, sponsors, or supervisors of these children, be counted on to listen to them, support them, and guide them through enjoyable, age-appropriate experiences.~~

~~(2) Mentoring research has consistently shown that children with mentors have improved academic performance, improved family relationships, and reduced drug and alcohol usage.~~

~~(3) Mentoring research has also shown that the most critical factor in building resilience in children is the presence of a caring, supportive person in their lives.~~

~~(4) By providing caring adults and nurturing opportunities for children in foster care, the community is able to support the State Department of Social Services and the counties in their efforts to ensure the well-being of children under the care of these entities.~~

1 (5) Several nonprofit organizations now recruit volunteers to  
2 provide mentoring, sponsorship, or supervision to children in  
3 foster care, or to children in need of a consistent adult in their lives.  
4 However, current methods of performing criminal history searches  
5 on these volunteers are time consuming, unwieldy, and  
6 impractical. In addition, the searches currently available under  
7 state law do not include a check of the reports of suspected child  
8 abuse and severe neglect that are maintained in the Child Abuse  
9 Central Index of the Department of Justice, and they do not include  
10 information on arrests subsequent to the initial criminal history  
11 check. Therefore, it is possible for an organization who is intending  
12 to help these children to unknowingly provide a volunteer with  
13 reports of child abuse, or to maintain a volunteer with arrests  
14 subsequent to the initial criminal history check authorized under  
15 current law.

16 (6) It is essential that nonprofit organizations who match  
17 children in foster care and various other children with volunteers  
18 be authorized to conduct the checks required to ensure that the  
19 volunteers they are providing these children are held to the highest  
20 standard.

21 (7) There is a need to provide nonprofit organizations that  
22 match adults with children an alternative means of obtaining  
23 criminal history information, subsequent criminal history  
24 information, and Child Abuse Central Index information, in a  
25 timely manner, on persons who volunteer to work with children in  
26 foster care and with other children who need a consistent adult in  
27 their lives.

28 (8) This need could be fulfilled if ~~parents and other persons or~~  
29 ~~organizations who~~ nonprofit organizations described in  
30 subdivision (a) that use the services of persons who ~~provide child~~  
31 ~~care or supervision, and who are not licensed, mentor, sponsor, or~~  
32 supervise children, could get criminal history information,  
33 subsequent criminal history information, and Child Abuse Central  
34 Index information, on those persons directly from the Department  
35 of Justice.

36 (c) Therefore, the Legislature supports the direct use, by  
37 ~~parents and other persons or organizations who~~ nonprofit  
38 organizations described in subdivision (a) that obtain ~~child care~~  
39 mentoring, sponsorship, or supervision services for children  
40 described in subdivision (a), of the fingerprint live-scan

technology, otherwise known as the California Crime Information Intelligence System (CAL-CII), of the Department of Justice, for processing fingerprints and obtaining criminal history information of ~~unlicensed~~ persons who provide ~~child care or supervision~~ mentoring, sponsorship, or supervision to children in foster care and to other children in need of a consistent adult in their lives, and also to obtain subsequent criminal history information from the Central Child Abuse Index directly from the Department of Justice.

1596.691. (a) A ~~parent, other person, or organization~~ nonprofit organization exempt from taxation pursuant to Section 501(c)(3) of the federal Internal Revenue Code may secure from the Department of Justice information from the Child Abuse Central Index pursuant to Section 11170 of the Penal Code, and may also secure from the Department of Justice criminal history information on a ~~person who seeks to provide, or is providing, child care or supervision in any capacity for that parent, other person, or organization~~ a person, who seeks to provide, or is providing, on a voluntary basis and through that organization, mentoring, sponsorship, or supervision of a child in foster care or any child in need of a consistent adult in his or her life, in order to determine whether that person has ever been convicted of a crime other than a minor traffic violation punishable pursuant to subdivision (a) of Section 42001 of the Vehicle Code, or has been arrested for any crime for which the person is required to register as a sex offender pursuant to Section 290 of the Penal Code, or for violating Section 245 or 273.5 of the Penal Code, or subdivision (b) of Section 273a of the Penal Code or, prior to January 1, 1994, paragraph (2) of Section 273a of the Penal Code.

(b) A ~~parent, other person, or organization~~ nonprofit organization described in subdivision (a) that is seeking the criminal history information pursuant to this section shall submit directly to the Department of Justice two sets of fingerprints, in a form consistent with the Department of Justice live-scan technology, of the person seeking to provide, or providing, ~~child care or supervision, mentoring, sponsorship, or supervision for a child~~, for the purpose of searching the criminal history information of the Department of Justice and the Federal Bureau of Investigation, and shall also submit directly to the Department of Justice the person's name for the purpose of searching the Child

1 *Abuse Central Index as described in subdivision (c) of Section*  
2 *11170 of the Penal Code.*

3 (c) The Department of Justice shall conduct the criminal  
4 history search of its records and shall ensure that a criminal history  
5 search is conducted by the Federal Bureau of Investigation using  
6 the second set of fingerprints.

7 (d) The criminal history information shall include the full  
8 criminal record, if any, ~~and~~ arrest information of the person who  
9 is providing, or is seeking to provide, ~~child care or supervision~~  
10 *mentoring, sponsorship, or supervision of a child, subsequent*  
11 *arrest information pursuant to Section 11105.3 of the Penal Code,*  
12 *and reports of suspected child abuse or severe neglect by the*  
13 *person that are maintained in the Child Abuse Central Index*  
14 *pursuant to Section 11170 of the Penal Code.*

15 (e) (1) If new fingerprints are required for processing, the  
16 Department of Justice shall, within five calendar days from the  
17 date of receipt of the fingerprints, notify the ~~parent, other person,~~  
18 ~~or organization who nonprofit organization described in~~  
19 *subdivision (a) that requested the information that the fingerprints*  
20 *are required.*

21 (2) If no criminal history information has been recorded, the  
22 Department of Justice shall, within five calendar days of receipt of  
23 the fingerprints, provide the ~~person who nonprofit organization~~  
24 *described in subdivision (a) that requested the criminal history*  
25 *information with a statement of that fact and the department with*  
26 *a criminal history clearance for that person.*

27 (3) If criminal history information specified in subdivision (a),  
28 *including Child Abuse Central Index reports,* has been recorded,  
29 the Department of Justice shall, within five calendar days from the  
30 date of receipt of the fingerprints, provide the information to the  
31 ~~parent, other person, or organization who nonprofit organization~~  
32 *described in subdivision (a) that requested it, and to the*  
33 *department.*

34 (f) The Department of Justice shall charge the ~~parent, other~~  
35 ~~person, or organization who organization described in subdivision~~  
36 *(a) that requested criminal history information the fee, if any, that*  
37 *the department charges —governmental agencies nonprofit*  
38 *organizations for criminal history searches pursuant to Section*  
39 *11105.3 of the Penal Code.*



(g) (1) For purposes of this chapter, a conviction means a plea or verdict of guilty, a conviction following a plea of nolo contendere, or an adjudication of a minor pursuant to ~~Sections 601 or Section 602~~ of the Welfare and Institutions Code.

(2) For purposes of this ~~section~~ *chapter*, the record of a conviction, or a copy thereof certified by the clerk of the court or by a judge of the court in which the conviction occurred, shall be conclusive evidence of the conviction. For purposes of this chapter, the arrest disposition report certified by the Department of Justice, or documents admissible in a criminal action pursuant to Section 969b of the Penal Code, shall be prima facie evidence of the conviction, notwithstanding any other provision of law prohibiting the admission of these documents in a civil or administrative action.

(h) ~~If a parent, other person, or organization denies the employment or volunteer services, or terminates employment or volunteer services, of a person a nonprofit organization described in subdivision (a) denies the person the opportunity, or terminates the person's authorization, to provide mentoring, sponsorship, or supervision services to children through that organization, based on written notification from the Department of Justice that the prospective employee, employee, volunteer, or other provider of child care or supervision person has a prior criminal conviction or arrest, the person or a report alleging suspected child abuse or severe neglect in the Child Abuse Central Index, the organization described in subdivision (a) shall not incur civil liability or unemployment insurance liability or liability of any kind as a result of that denial or termination.~~

(i) *This chapter does not apply to the obtaining of criminal history checks, clearances, or exemptions from disqualification pursuant to Section 1522, except that the department may permit a criminal record clearance obtained by a nonprofit organization described in subdivision (a) on a person pursuant to this section to be used by a community care facility, foster family home, or a certified family home of a licensed foster family agency in order to satisfy the criminal record clearance requirements for volunteers pursuant to subparagraph (D) of paragraph (1) of subdivision (b) of Section 1522.*

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety

1 within the meaning of Article IV of the Constitution and shall go  
2 into immediate effect. The facts constituting the necessity are:

3 In order to ensure that ~~persons and organizations~~, *at the earliest*  
4 *possible time, nonprofit organizations that are exempt from*  
5 *taxation pursuant to Section 501(c)(3) of the federal Internal*  
6 *Revenue Code and that use the services of persons who provide*  
7 ~~child care and supervision~~ *mentoring, sponsorship, or supervision*  
8 *to children* can obtain criminal ~~background~~ *history* information ~~in~~  
9 ~~an expedited manner, and that organizations that establish~~  
10 ~~mentor/mentee relationships between adults and children are able~~  
11 ~~to find safe mentors for children, and to establish those~~  
12 ~~relationship as quickly as possible,~~ *subsequent criminal history*  
13 *information, and information from the Child Abuse Central Index,*  
14 it is necessary that this act take effect immediately.

